

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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EDWARD CARTER, FRANK FIORILLO, KEVIN	:	
LAMM, JOSEPH NOFI, and THOMAS SNYDER,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Case No. 07 CV 1215 (SJF)(ETB)
	:	
INCORPORATED VILLAGE OF OCEAN BEACH;	:	
MAYOR JOSEPH C. LOEFFLER, JR., individually	:	
and in his official capacity; former mayor NATALIE K.	:	
ROGERS, individually and in her official capacity;	:	
OCEAN BEACH POLICE DEPARTMENT; ACTING	:	
DEPUTY POLICE CHIEF GEORGE B. HESSE,	:	
individually and in his official capacity; SUFFOLK	:	
COUNTY; SUFFOLK COUNTY POLICE	:	
DEPARTMENT; SUFFOLK COUNTY DEPARTMENT	:	
OF CIVIL SERVICE; and ALISON SANCHEZ,	:	
individually and in her official capacity,	:	
	:	
Defendants.	:	

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AFFIDAVIT OF FRANK FIORILLO IN SUPPORT OF PLAINTIFFS’
RULE 56.1 COUNTER-STATEMENTS OF MATERIAL FACTS IN DISPUTE

STATE OF NEW YORK)
)ss.:
COUNTY OF SUFFOLK)

I, Frank Fiorillo, hereby declare and state:

1. I am a Plaintiff in the above-captioned matter, and have brought this action against the Incorporated Village of Ocean Beach (“Ocean Beach”), certain of its officials (collectively, “Ocean Beach Defendants”), Suffolk County, Suffolk County Department of Civil Service and one of its officials (collectively, “County Defendants”) (all Defendants, collectively, “Defendants”), for the unlawful termination of my employment as an Ocean

Beach Police Officer on April 2, 2006, and for events related to my termination, including Defendants' defamation and retaliation against me.

2. In addition to the facts attested to in my deposition, the following is additional information concerning my employment with the Ocean Beach Defendants and termination from my position as an Ocean Beach Police Officer with the Ocean Beach Police Department ("OBPD").

3. During my employment with Ocean Beach, I expressed opposition to conduct of Ocean Beach employees and officials that I believed to be unlawful, corrupt, and/or improper, out of concern for the public and residents of Ocean Beach, as well as for myself and my fellow officers. In doing so, I acted as a concerned private citizen, knowing that it was not part of my duties as an Ocean Beach Police Officer to express opposition to such conduct.

4. I voiced my opposition to the employment of Ocean Beach Police Officers who were not certified by Suffolk County Civil Service to work as Police Officers in Ocean Beach and did not know Ocean Beach and Suffolk County emergency police radio codes, which created a threat to public safety and to the safety of fellow Ocean Beach Police Officers.

5. I voiced my opposition to the destruction of OBPD property by uncertified Ocean Beach Police Officers.

6. I voiced my opposition to Ocean Beach Police Officers drinking on duty, including in local bars and in the Ocean Beach Police station.

7. I voiced my opposition to being forced to leave Ocean Beach short-staffed when I was ordered to chauffeur intoxicated Ocean Beach Police Officers.

8. I voiced my opposition to Defendant George B. Hesse's unlawful, selective enforcement of laws, among other occasions, when I attempted to issue a summons to the son of a man named Ron, whose wife operated a business in Ocean Beach located at 6 Bay Walk, Ocean Beach, NY 11706. Ron responded angrily that I could not issue the summons to his son because he "takes care of the Bosetti brothers," two uncertified Ocean Beach Police Officers. Defendant Hesse became involved in this dispute by tearing the summons that I had written into pieces and destroying it, and instructing me that I was prohibited from issuing summonses to this business owner.

9. On another occasion while working as a Police Officer in Ocean Beach in or around 2005, I observed Michael Loeffler, Defendant Loeffler's son, driving in a golf cart with a barbecue grill. When I arrived at work the following day, I reviewed a field report concerning a seasonal resident of Ocean Beach who reported that a barbecue grill had been stolen from her residence. I suspected that the grill in question may have been stolen by Michael Loeffler, and I proceeded to the Defendant Loeffler's residence, together with the party who had reported the grill stolen, to inquire. I spoke with Defendant Loeffler, who told me that he would speak with his son Michael to determine whether Michael had stolen the barbecue grill. The party who reported the stolen barbecue then returned to her residence in Ocean Beach. When she departed, Defendant Loeffler stated that I was prohibited from arresting or issuing a summons to his son in connection with his son's theft of the barbecue grill. Defendant Loeffler also directed me to treat the report of the stolen barbecue grill as "unfounded," and to make sure that the OBPD did not create a record of the incident. I voiced my opposition to this unlawful directive to Defendant Loeffler, and to Defendant Hesse.

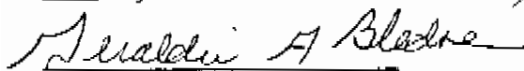
10. During my employment as an Ocean Beach Police Officer, I heard Defendant Hesse and other Ocean Beach Police Officers refer to Defendant Loeffler as the "Ocean Beach Police Liaison" on numerous occasions.

11. On another occasion, during the summer of 2005, Joe Nofi and I spoke with Steve Einig, a Trustee on the Ocean Beach Board of Trustees, and voiced our opposition to the unlawful conduct of Defendant Hesse and certain Ocean Beach Police Officers. Trustee Einig responded by stating that he "knew what [we were] talking about," and that appropriate action would be taken.

12. Throughout my employment as an Ocean Beach Police Officer, I regularly discussed the opposition to unlawful conduct and threats to public safety that I voiced to Defendant Hesse, former Chief Ed Paradiso, Defendant Loeffler, Trustee Einig, and the Suffolk County District Attorneys' Office, with fellow Ocean Beach Police Officers Joe Nofi, Kevin Lamm, Ed Carter and Tom Snyder, who are also Plaintiffs in this case. These Officers would, in turn, routinely inform me when they voiced similar opposition to Ocean Beach officials and authorities.

13. When Defendant Hesse terminated my employment on April 2, 2006, he claimed that he had to fire ten Ocean Beach Police Officers due to budget cuts. Defendant Hesse also stated to me that "you wrote too many summonses for my liking anyway," and that he wanted to make the Ocean Beach Police Department into a "kinder and gentler" Police Department.

Sworn to before me this
29th day of December 2009



Notary Public


FRANK FLORILLO

GERALDINE A. BLEDSOE
Notary Public, State of New York
No. 0609563

Qualified in Suffolk County
Certificate Filed in Suffolk County
Commission Expires Oct. 19, 2013